

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

AXALTA COATING SYSTEMS, LLC,	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION NO. 15-5243
	:	
MIDWEST II, INC.,	:	
Defendant.	:	
	:	

ORDER

AND NOW, this 8th day of November, 2016, upon consideration of Plaintiff Axalta Coating Systems, LLC's Motion to Dismiss Defendant's Counterclaims and to Strike Affirmative Defense of Fraud in the Execution (Doc. No. 22) and the response thereto, it is hereby **ORDERED** that Plaintiff's Motion is **GRANTED IN PART AND DENIED IN PART** as follows:

1. Defendant's Counterclaim for Breach of Contract (Count I) is **DISMISSED**.
2. Plaintiff's Motion is **DENIED** with respect to Defendant's Counterclaim for Fraud in the Execution (Count II) and Defendant's affirmative defense of fraud in the execution.

It is so **ORDERED**.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFÉ, J.